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9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 MIRYAM ABITBOL, individually and  
12 on behalf of all others similarly situated,

13 *Plaintiff,*

14 v.

15 CURRENT ENERGY LLC

16 AND

17 KEVIN ADAMS

18 *Defendants.*  
19  
20

Case No.

**CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

21 **CLASS ACTION COMPLAINT**  
22

23 Plaintiff Miryam Abitbol (hereinafter referred to as “Plaintiff”), individually  
24 and on behalf of all others similarly situated, alleges on personal knowledge,  
25 investigation of her counsel, and on information and belief, as follows:  
26  
27  
28

1  
2  
3 **NATURE OF ACTION**

4 1. This case involves a campaign by Current Energy LLC to market its  
5 solar energy services through telemarketing calls by contacting numbers on the  
6 National Do Not Call Registry, in plain violation of the Telephone Consumer  
7 Protection Act, 47 U.S.C. § 227 *et seq.* (hereinafter referred to as the “TCPA”).  
8

9 2. The recipients of Current Energy’s illegal calls, which include  
10 Plaintiff and the proposed class, are entitled to damages under the TCPA, and  
11 because the technology used by Current Energy makes calls *en masse*, the  
12 appropriate vehicle for their recovery is a class action lawsuit.  
13

14 **PARTIES**

15  
16 3. Plaintiff Miryam Abitbol is an individual located in Los Angeles,  
17 California.  
18

19 4. Defendant Current Energy LLC is a California limited liability  
20 company located in California that made telemarketing calls from this District.  
21

22 5. Kevin Adams is an individual residing in this District.  
23

24 **JURISDICTION AND VENUE**

25 6. This Court has federal question jurisdiction pursuant to 28 U.S.C. §  
26 1331 and 47 U.S.C. § 227 *et seq.*  
27

1           7.     This Court has general jurisdiction over Defendants because they are  
2 either residents of or have their principal places of business in this District.

3           8.     Venue is proper pursuant to 28 U.S.C. § 1391 because the telephone  
4 calls at issue were sent from and into this District.

5  
6                                   **TCPA BACKGROUND**

7  
8                   The National Do Not Call Registry

9           9.     The TCPA prohibits making multiple telemarketing calls to a  
10 residential telephone number that has previously been registered on the National  
11 Do Not Call Registry. See 47 U.S.C. § 227(c)(5).

12  
13           10.    The National Do Not Call Registry allows consumers to register their  
14 telephone numbers and thereby indicate their desire not to receive telephone  
15 solicitations at those numbers. See 47 C.F.R. § 64.1200(c)(2).

16  
17           11.    A listing on the National Do Not Call Registry “must be honored  
18 indefinitely, or until the registration is cancelled by the consumer or the telephone  
19 number is removed by the database administrator.” *Id.*

20  
21                                   **FACTUAL ALLEGATIONS**

22           12.    Defendants are “persons” as the term is defined by 47 U.S.C.  
23 § 153(39).

24  
25           13.    Plaintiff’s telephone number, 310-XXX-XXXX, is used for residential  
26 purposes and is used for personal purposes.

1 14. That number is not associated with a business.

2 15. The number has been registered on the National Do Not Call Registry  
3 continuously since June 1, 2011.  
4

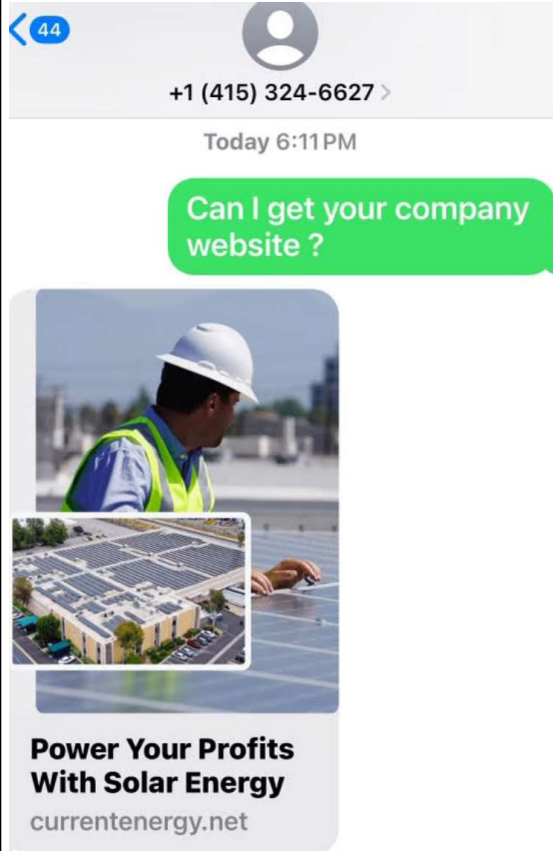
5 16. Despite this, the Plaintiff received two telemarketing calls placed from  
6 Current Energy using the false alias “Energy Efficient” on August 6, 2024 from the  
7 Caller IDs 424-309-8955 and 575-243-8657 to solicit her for solar panels and  
8 services.  
9

10 17. The Plaintiff stated that she was not interested and not to call on the  
11 first of these two calls.  
12

13 18. During the second of these two calls, to uncover the identity of the  
14 caller continuing to call her illegally, she played along with the sales pitch.  
15

16 19. During the second call, she was transferred to Defendant Kevin  
17 Adams who confirmed that they were in fact calling from Defendant Current  
18 Energy.  
19

20 20. To confirm this fact, the representative and Defendant Kevin Adams,  
21 further called the Plaintiff from his other telephone numbers 415-324-6627 and  
22 765-409-3132 sent the Plaintiff a copy of his contractor license number and also  
23 stated that he did installations for the Van Nuys airport:  
24  
25  
26



14 We have done installations

15 for the Van Nuys airport so

16 you can rest assured that

17 your home will be in good

18 hands



20 21. Prior to filing this litigation, counsel for Plaintiff emailed Pat

21 Delchop, the owner of Defendant Current Energy.

22 22. Delchop responded that Defendant Adams was a purportedly

23 “independent residential solar salesman” who had “brought residential solar

24 projects to our company for installation.” The following sentence, however,

25

26

1 Delchop contradicted himself, stating that they had no knowledge of Adams using  
2 their name or website to generate sales.

3 23. In addition to the company for which Adams works being liable for  
4 the TCPA violations alleged herein, Defendant Adams is also personally liable for  
5 the foregoing calls and texts based on well-established TCPA case law.

7 24. Defendant Adams may be personally liable for the acts alleged in this  
8 Complaint pursuant to 47 U.S.C. § 217 of the TCPA, which reads, *inter alia*:  
9 “[T]he act, omission, or failure of any officer, agent, or other person acting for or  
10 employed by any common carrier or user, acting within the scope of his  
11 employment, shall in every case be also deemed to be the act, omission, or failure  
12 of such carrier or user *as well as of that person.*” 47 U.S.C. § 217 (emphasis  
13 added).  
14

15 25. Based on the foregoing facts, it is evident that Defendant Adams  
16 personally directed or made some of the calls at issue on Current Energy’s behalf.  
17

18 26. Defendant Adams personally paid for at least some of the telephone  
19 services connected to the TCPA violative conduct at issue.  
20

21 27. The foregoing facts demonstrate that Adams had direct, personal  
22 knowledge of and participation in the conduct and course of conduct complained  
23 of which violated the TCPA.  
24

25 28. The calls were not necessitated by an emergency.  
26

1           29. The Plaintiff never requested the calls or provided her consent to  
2 receive them.

3           30. In fact, as described above, the Plaintiff explicitly requested the calls  
4 to stop.

5           31. The Plaintiff never did business with Defendants Current Energy, its  
6 false alias “Energy Efficient,” or with Defendant Adams.

7           32. The calls were nonconsensual encounters.

8           33. Plaintiff and all members of the Class, defined below, have been  
9 harmed by the acts of Defendants because their privacy has been violated and they  
10 were annoyed and harassed. Plaintiff and the Class Members were also harmed by  
11 use of their telephone power, network bandwidth, and the intrusion on their  
12 telephone that occupied it from receiving legitimate communications.  
13  
14  
15  
16

17                           **CLASS ACTION ALLEGATIONS**

18           34. Plaintiff bring this action on behalf of herself and the following class  
19 (the “Class”) pursuant to Federal Rule of Civil Procedure 23.  
20  
21

22                           **Telephone Consumer Protection Act Do Not Call Registry Class:**

23           All persons in the United States whose (1) telephone numbers were on  
24 the National Do Not Call Registry for at least 31 days, (2) but who  
25 received more than one telemarketing calls from or on behalf of  
26

1 Defendants (3) within a 12-month period (4) from the four years prior  
2 to the filing of the complaint through the date of trial.

3  
4 35. Defendants and their employees or agents are excluded from the Class.  
5 Plaintiff reserves the right to modify or amend the Class definition, as appropriate,  
6 during the course of this litigation.

7  
8 36. Plaintiff brings all claims in this action individually and on behalf of  
9 Class Members against Defendants.

#### 10 **Numerosity**

11  
12 37. Members of the Class are so numerous that their individual joinder is  
13 impracticable.

14 38. On information and belief, based on the technology used to call  
15 Plaintiff, which is used to make calls *en masse*, Members of the Class number in the  
16 thousands.

17  
18 39. The precise number of Class Members and their identities are unknown  
19 to Plaintiff at this time but may be determined through discovery.

20  
21 40. Class Members may be notified of the pendency of this action by mail  
22 and/or publication through the distribution records of Defendants.

#### 23 **Commonality**

24  
25 41. Common questions of law and fact exist as to all Class Members and  
26



1 predominate over questions affecting only individual Class Members.

2 42. Common legal and factual questions include, but are not limited to,  
3 whether Defendants have violated the Telephone Consumer Protection Act and  
4 whether Class Members are entitled to actual and/or statutory damages for the  
5 aforementioned violations.  
6

### 7 **Typicality**

8  
9 43. The claims of the named Plaintiff are typical of the claims of the Class  
10 because the named Plaintiff, like all other Class Members, received unsolicited  
11 telephonic sales calls from the Defendants without giving them her consent to  
12 receive such calls.  
13

### 14 **Adequacy of Representation**

15 44. Plaintiff is an adequate representative of the Class because her interests  
16 do not conflict with the interests of the Class Members she seeks to represent, she  
17 has retained competent counsel experienced in prosecuting class actions, and she  
18 intends to prosecute this action vigorously.  
19  
20

21 45. The interests of Class Members will be fairly and adequately protected  
22 by Plaintiff and her counsel.  
23

### 24 **Superiority**

25 46. The class mechanism is superior to other available means for the fair  
26 and efficient adjudication of the claims of Class Members.

48. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system. This strain on the parties and the judicial system would be heightened in this case, given the complex legal and factual issues at play.

50. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendants' liability.

**COUNT I**  
**Telephone Consumer Protection Act**  
**(Violations of 47 U.S.C. § 227)**  
**(On Behalf of Plaintiff and the National Do Not Call Registry Class)**

53. The foregoing acts and omissions of Defendants and/or their affiliates,

agents, and/or other persons or entities acting on Defendants' behalf constitute numerous and multiple violations of the TCPA, 47 U.S.C. § 227, by making telemarketing calls, except for emergency purposes, to the Plaintiff and the Class despite their numbers being on the National Do Not Call Registry.

54. The Defendants' violations were negligent, willful, or knowing.

55. As a result of Defendants' and/or their affiliates, agents, and/or other persons or entities acting on Defendants' behalf violations of the TCPA, 47 U.S.C. § 227, Plaintiff and members of the Class presumptively are entitled to an award of between \$500 and \$1,500 in damages for each and every call made.

56. Plaintiff and members of the Class are also entitled to and do seek injunctive relief prohibiting Defendants from making telemarketing calls to numbers on the National Do Not Call Registry, except for emergency purposes, in the future.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, individually and on behalf of the Class, prays for the following relief:

A. Injunctive relief prohibiting Defendants from calling telephone numbers advertising their goods or services, except for emergency purposes, to numbers on the National Do Not Call Registry in the future;

B. That the Court enter a judgment awarding Plaintiff and all class

members statutory damages of \$500 for each violation of the TCPA and \$1,500 for each knowing or willful violation;

C. An order certifying this action to be a proper class action pursuant to Federal Rule of Civil Procedure 23, establishing an appropriate Class the Court deems appropriate, finding that Plaintiff are a proper representative of the Class, and appointing the lawyers and law firms representing Plaintiff as counsel for the Class; and

D. Such other relief as the Court deems just and proper.

### **JURY DEMAND**

Plaintiff request a jury trial as to all claims of the complaint so triable.

Dated: September 20, 2024 PLAINTIFF, individually and on behalf of all others similarly situated,

By: /s/ Dana J. Oliver

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